

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Bail Appl..No. 7305 of 2007()

CRIME 117/07 OF AGALI POLICE STATION

: PETITIONERS/ACCUSED NO.2 AND 3

**1. SANTO, S/O JOSEPH,
KOZHIPURATH VEEDU, CHITTOOR POST,
PALAKKAD.**

**2. SAJI, S/O JOHN, CHERIYIL SHOLAYUR,
AGALI, PALAKKAD.**

BY ADV. SRI.MANSOOR.B.H.

RESPONDENTS: STATE AND COMPLAINANT

**1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.**

**2. STATION HOUSE OFFICER,
AGALI POLICE STATION, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

R. BASANT, J.

.....
B.A. No. 7305 OF 2007
.....

Dated this the 3rd day of December, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused Nos.2 and 3. Altogether there are 4 accused persons. All the four accused persons were allegedly found to be in possession of 270 litres of arrack in a vehicle when they were intercepted. Three of them took to their heels. Only the driver of the vehicle was available for arrest. The incident took place on 27.9.07. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The wife of the second accused has filed a private complaint against the then officials in the police station in 2003.

3. The learned Public Prosecutor opposes the application. The action against the petitioners was initiated because of the true allegations raised against them. The contemporaneous seizure mahazar and the occurrence report

reveal the complicity of the petitioners. There are no circumstances warranting or justifying the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C., submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. This, I agree with the learned Public Prosecutor, is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

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